

Notice of Allowability

Application No.

10/683,849

Examiner

Rip A. Lee

Applicant(s)

PHILIPPOZ ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1 and 12.
3. ☐ The drawings filed on ____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Arne R. Jarnholm on July 21, 2005.

- Claim 1 insert the following prior to the term "A moldable" :
 "A process for forming a molded article comprising the steps of heating"
- Claim 1 replace "A moldable" with lower case "a moldable" as indicated by examiner's
 edit marks.
- Claim 1 replace "11,5" with "11.5"
- Claim 1 replace the period after "composition" with a comma as indicated, and insert the
 following:
 "above its melting temperature, forming the composition into a desired shape,
 and allowing the composition to cool to form a molded article."
- Cancel claim 11.

Amendment to Specification – Cross-Reference to Related Applications

insert "now U.S. Patent No. 6,727,324" after the date "July 18, 2002," as indicated

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 1 and 2 are allowed over the closest references, Clarke (U.S. 4,275,180) and McKenna (U.S. 6,027,818).

The present invention is drawn to a process for forming a molded article comprising the steps of heating a composition above its melt temperature, forming the composition into a desired shape, and allowing the composition to cool to form said molded article, wherein the composition comprises:

60-90 wt % (A) blend of copolyether esters having acid end-groups,

75-97 wt % (A1) with Shore D hardness 45-72

3-25 wt % (A2) with Shore D hardness 25-40

6-15 wt % (B) copolymer comprising

50-95 wt % ethylene

5-35 wt % at least one C₂-C₁₀ (cyclo)alkyl (meth)acrylate

1-15 wt % at least one unsaturated epoxide

at least one of (C) or (D) where

(C) copolymer comprising

60-88 wt % ethylene

11.5-40 wt % at least one C₂-C₁₀ (cyclo)alkyl (meth)acrylate

0.5-6 wt % at least one anhydride of unsaturated dicarboxylic acid

(D) at least one rubbery polymer that can be dispersed finely into the composition by extrusion,

component (D) when present is in an amount up to 20 wt % of the composition providing the sum of (C) and (D) is at least 2 wt % of the composition,

(E) a calcium compound that reacts with acid end-groups of the copolyether ester elastomers of blend (A) in an amount such as to provide up to 2 wt % of elemental calcium, and

(F) one or more optional additives.

Clarke teaches a polymer composition comprising a crosslinked blend of a copolyether ester elastomer and an ethylene/acrylic ester or terpolymer of ethylene with an alkyl acrylate and a third copolymerizable monomer. The reference is deficient in several aspects. First, a blend of copolyether esters is not used as the base resin, and there is no requisite acid end-group feature. Second, the ethylene acrylic ester terpolymer does not include epoxide as the third copolymerizable monomer. Third, there is no calcium component. Thus, the reference does not teach the subject matter of the instant claims.

McKenna teaches a composition comprised of copolyether ester elastomer containing acid end-groups, an epoxide compound, and an alkali earth metal catalyst. Clearly, the patent is deficient in teaching use of a copolymer comprising ethylene, (cyclo)alkyl (meth)acrylate, and unsaturated epoxide.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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July 21, 2005



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